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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,460	10/10/2001	Andrew Ernest Fano	10022/187	4729

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EXAMINER

DIXON, THOMAS A

ART UNIT PAPER NUMBER

3639

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
09/975,460	FANO, ANDREW ERNEST	
Examiner	Art Unit	
Thomas A. Dixon	3639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-59, 61-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28-35, 42-59, 61-72 is/are allowed.
- 6) ☒ Claim(s) 20-27 and 36-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment of 5-10-05 has been considered. The amendments necessitate the new rejections below.

Claim Objections

2. Claims 56, 61 are objected to because of the following informalities:
as per claim 56, "a code segment that generates" seems to belong in an apparatus claim, "generating" might be the intent, further, the word "merchandize" might be a misspelling of "merchandise".
as per claim 61, the word "one-retailer" appears to have an extraneous hyphen.
Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 20-27, 36-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per Claim 20, the phrases "a retailer-agent" and "the retailer-based agent" do not match, which is confusing.

As per Claim 36, the phrases "a retailer agent" and "the agent" do not match, which is confusing.

Allowable Subject Matter

4. Claims 28-35, 42-59 61-72 are allowable.

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5. The following is an examiner's statement of reasons for allowability:

As per Claim 28.

Bouve et al (5,682,525) in view of Hunt et al (5,893,091) further in view of Bianco (5,047,416) do not disclose or fairly teach:

a code segment that transmits the physical the physical location of the user and the user profile to a retailer-based agent including a computerized network of information having identifications of physical locations of retailers and items of merchandise available for purchase at the retailers;

a code segment that queries the computerized network of information utilizing a query based on the information identifying the item of merchandise that the user desires to purchase and the physical location of the user, the result of the query identifying a retailer proximate the user selling an item of merchandise associated with the item of merchandise that the user desires to purchase;

a code segment that generates a customized offer for the item of merchandise based on the user profile and the result of the query.

As per Claim 42.

Bouve et al (5,682,525) in view of Hunt et al (5,893,091) further in view of Bianco (5,047,416) do not disclose or fairly teach:

transmitting the physical the physical location of the user and the user profile to a retailer-based agent including a computerized network of information having identifications of physical locations of retailers and items of merchandise available for purchase at the retailers;

querying the computerized network of information utilizing a query based on the information identifying the item of merchandise that the user desires to purchase and the physical location of the user, the result of the query identifying a retailer proximate the user selling an item of merchandise associated with the item of merchandise that the user desires to purchase;

generating a customized offer for the item of merchandise based on the user profile and the result of the query.

As per Claim 49.

Bouve et al (5,682,525) in view of Hunt et al (5,893,091) further in view of Bianco (5,047,416) do not disclose or fairly teach:

a code segment that transmits the physical the physical location of the user and the user profile to a retailer-based agent including a computerized network of information having identifications of physical locations of retailers and items of merchandise available for purchase at the retailers;

a code segment that queries the computerized network of information utilizing a query based on the user profile information and the physical location of the user, the result of the query identifying a retailer proximate the user having the item of merchandise for sale;

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a code segment that generates a customized offer for the item of merchandise based on the user profile and the result of the query.

As per Claim 56.

Bouve et al (5,682,525) in view of Hunt et al (5,893,091) further in view of Bianco (5,047,416) do not disclose or fairly teach:

transmitting the physical the physical location of the user and the user profile to a retailer-based agent including a computerized network of information having identifications of physical locations of retailers and items of merchandise available for purchase at the retailers;

automatically query the computerized network of information utilizing a query based on the user profile information and the physical location of the user, the result of the query identifying a retailer proximate the user having the item of merchandise for sale;

generating purchasing information for the item of merchandise based on the user profile and the result of the query;

suggesting items of merchandise for sale at the closest retailers surrounding the user.

As per Claim 61.

Bouve et al (5,682,525) in view of Hunt et al (5,893,091) further in view of Bianco (5,047,416) do not disclose or fairly teach:

means for automatically querying a computerized network of information identifying items of merchandise for sale at retailers proximate the user utilizing a query based on the user profile and a physical location of the user, a result of the query identifying retailers proximate the user selling items of merchandise associated with the product desired to be purchased by the user;

means responsive to automatically querying for locating at least one retailer being proximate the user having an item of merchandise for sale that is associated with the desired product;

means for generating a customized offer for the item of merchandise based on the user profile and the result of the query.

As per Claim 67.

Bouve et al (5,682,525) in view of Hunt et al (5,893,091) further in view of Bianco (5,047,416) do not disclose or fairly teach:

transmitting the physical location of the mobile user and the user profile information to a retailer-agent including a computerized network of information having identifications of physical locations of retailers and items of merchandise available for purchase at the retailers;

querying the computer network based on the stored user profile information to locate a retailer proximate the mobile user that offers for sale the at least one product desired to be purchased;

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generating an offer for sale for the at least one product based on the user profile and the result of the query.

As per Claim 70.

Bouve et al (5,682,525) in view of Hunt et al (5,893,091) further in view of Bianco (5,047,416) do not disclose or fairly teach:

a retailer agent configured to determine a physical location of a mobile shopper proximate the retailer agent and transmit an offer for sale of a desired item of merchandise based on the physical location of the mobile shopper relative to at least one of the plurality of retailers; and

a shopping agent communicatively coupled with the retailer agent and configured to store information related to desired items of merchandise and the shopper's shopping preferences and to receive information related to at least one of the plurality of retailers proximate the shopper offering for sale the desired item of merchandise, said information being derived from a query of the computerized network based on the stored information and the physical location of the shopper.

The claims that depend from the above allowable claims are allowable for the same reasons.

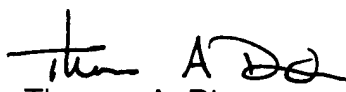
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (571) 272-6803. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Thomas A. Dixon
Primary Examiner
Art Unit 3639

July 05